

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments,)
FM Broadcast Stations.)
(Marlboro, Vermont))

PETITION FOR RULEMAKING

1. Mountain View Broadcasting, Inc., licensee of Station WXXK(FM), Newport, New Hampshire ("WXXK"), by its attorneys, hereby petitions pursuant to Section 1.401 of the Commission's Rules for the institution of a rulemaking proceeding to amend the Table of FM Allotments, Section 73.202(b) of the Commission's Rules, to delete the allotment of Channel 268A at Marlboro, Vermont. As will be explained below, the deletion of the allotment would serve the public interest as there is little prospect that the Marlboro allotment will ever be used and deletion of the allotment will open the way for WXXK to increase its power to the maximum permitted for a Class A station, thereby improving and expanding its service to the public.

2. Channel 268A was first allotted to Marlboro effective May 31, 1988. 53 Fed. Reg. 12770, April 19, 1988. A single application was filed for the allotment during the "filing window." That application, filed by Route Nine Broadcasting (ARN-880701MA), proposed a transmitter site that was short-spaced to two stations, and included a request for a waiver of Section 73.207. In support of the waiver request, Route Nine offered several reasons why it was not possible to propose a transmitter

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site for a station using the Marlboro allotment which would meet all of the spacing requirements imposed by Section 73.207. By letter date November 30, 1988 (Ref: 8920-AED), the Chief of the FM Branch of the Audio Services Division of the Mass Media Bureau denied Route Nine's request for a waiver of Section 73.207 and returned the application. Route Nine petitioned for reconsideration of the denial of its waiver request. Its petition for reconsideration was denied on June 23, 1989. See FCC Public Notice FCFS-14 released June 29, 1989.

3. After its petition for reconsideration was denied, Route Nine filed a new application for Channel 268A at Marlboro, Vermont under the Commission's "first-come, first served" processing procedures (ARN-890705MA). The application did not request a waiver of Section 73.207. However, upon reviewing the application, the Commission determined that the transmitter site specified by Route Nine was short-spaced to Station WRCZ, Pittsfield, Massachusetts, one of two stations to which the site specified in its previous application had been short-spaced, and that the site was also short-spaced to the allotment reference point for Channel 268A in Brandon, Vermont and to an application for that allotment. Accordingly, by letter dated April 23, 1992 (Ref: 8920-WGW), the Chief of the FM Branch of the Audio Services Division of the Mass Media Bureau returned Route Nine's application as unacceptable for filing. Route Nine did not seek reconsideration or review of this action.

4. As set forth in the Technical Statement attached hereto, the vacant allotment of Channel 268A at Marlboro, Vermont is the only impediment to WXXK filing an application to increase its power to the maximum allowed for a Class A station at its existing site. Such a power increase would enable WXXK to provide better and more reliable service to its community of license and its existing service area and also to serve areas beyond its existing service area. Moreover, deleting the allotment of Channel 268A at Marlboro, Vermont will cause no harm to potential listeners in the Marlboro area as Marlboro is located approximately 12 kilometers to the West of Brattleboro, Vermont and well within the primary service areas of the two full-time AM and two Class A FM stations licensed to that community.^{1/}

5. The fact that during the more than 4 years that Channel 268A has been allotted to Marlboro, Vermont, only one party has ever expressed an interest in using the allotment, and that party has failed on two attempts to file an application specifying a fully-spaced transmitter site, indicates that it is highly unlikely that any party will file an application for Channel 268A at Marlboro which satisfies the commission's channel separation and other technical requirements. Therefore, in view of the community of Marlboro is well served by stations from nearby

^{1/} The stations licensed to Brattleboro, Vermont are: WKVT(AM), 1490 kHz, 1 kw-U; WTSA(AM), 1450 kHz, 1 kw-U; WKVT-FM, 92.7 mHz, 6 kw, 610 feet HAAT; WTSA-FM, 96.7 mHz, 3 kw, 170 feet HAAT.

Brattleboro, Vermont and the fact that deleting the allotment of Channel 268A at Marlboro, Vermont will clear the way for WXXK to improve and expand its service, deletion of the allotment will serve the public interest by providing for the most efficient use of Channel 268A. See Report and Order in MM Docket 92-65, DA 92-804 released June 30, 1992.

WHEREFORE, for the foregoing reasons, it is respectfully submitted that the public interest would be served by the initiation of a rulemaking proceeding looking to the deletion of the allotment of Channel 268A at Marlboro, Vermont.

Respectfully submitted,



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Date: August 28, 1992

Technical Exhibit
In Support of Petition for Rulemaking
Mountain View Broadcasting, Inc.
RadioStation WXXK
Newport, New Hampshire

Technical Narrative

This technical narrative was prepared on behalf of Mountain View Broadcasting, Inc., licensee of station WXXK, Newport, New Hampshire. WXXK is authorized to operate on channel 269A with effective radiated power of 0.26 kilowatts and antenna height above average terrain of 340 meters. The only practical impediment to WXXK increasing its power to the maximum permitted for its class under the Rules and providing improved service to its City of License and its environs is an allocation of channel 268A to Marlboro, Vermont. Channel 268A in Marlboro, Vermont has remained unsuccessfully assigned for more than five years. By means of this petition, WXXK requests the deletion of channel 268A to Marlboro, Vermont. In this manner, WXXK's power increase can be accomplished in accordance with FCC rules.

WXXK requests amendment of 47 CFR 73.202 (b), Table of Allotments, to appear as follows:

<u>City, State</u>	<u>Channel</u>	
	<u>Present</u>	<u>Proposed</u>
Marlboro, VT	268A	Deleted

WXXK, utilizing minor and unradical directionalization, can operate as a maximum facility Class A station on channel 269 from its existing site approximately 10 kilometers northwest of Newport and meet all separation requirements, pursuant to 47 CFR 73.213 (c) (2) and 73.215, with existing and proposed stations with the change proposed herein. The geographical coordinates of the site which would also serve as the reference coordinates are:

43° 23' 45" North Latitude
72° 17' 40" West Longitude

From these coordinates, WXXK can provide 70 dBμ coverage to all of Newport, New Hampshire. Assuming a maximum Class A facility at the reference site, the change in classification will additionally allow an increased population within the service contour (60 dBμ) as well as an added 60 dBμ coverage of approximately 300 square kilometers.

Conclusion:

If the allocation of channel 268A to Marlboro, Vermont is deleted, it has been determined that WXXK can operate as a full facility Class A on channel 269A in accordance with all pertinent FCC separation and contour protection requirements, pursuant to 47 CFR 73.213 (c) (2) and 73.215. No changes proposed herein would affect any authorized or existing stations. Therefore, WXXK respectfully requests the authorization of full facility Class A status and the deletion of channel 268A to Marlboro, Vermont.

I certify that I have personally prepared or overseen the supporting studies necessary for this Technical Narrative and that I have examined the foregoing and have found it to be accurate and true to the best of my knowledge and belief.

Gary P. Savoie

August 25, 1992

WXXK, utilizing minor and unradical directionalization, can operate as a maximum facility Class A station on channel 269 from its existing site approximately 10 kilometers northwest of Newport and meet all separation requirements, pursuant to 47 CFR 73.213 (c) (2) and 73.215, with existing and proposed stations with the change proposed herein. The geographical coordinates of the site which would also serve as the reference coordinates are:

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From these coordinates, WXXK can provide 70 dBμ coverage to all of Newport, New Hampshire. Assuming a maximum Class A facility at the reference site, the change in classification will additionally allow an increased population within the service contour (60 dBμ) as well as an added 60 dBμ coverage of approximately 300 square kilometers.

Conclusion:

If the allocation of channel 268A to Marlboro, Vermont is deleted, it has been determined that WXXK can operate as a full facility Class A on channel 269A in accordance with all pertinent FCC separation and contour protection requirements, pursuant to 47 CFR 73.213 (c) (2) and 73.215. No changes proposed herein would affect any authorized or existing stations. Therefore, WXXK respectfully requests the authorization of full facility Class A status and the deletion of channel 268A to Marlboro, Vermont.

Gary P. Savoie

August 25, 1992